

CORRECTED FISCAL MEMORANDUM

HB 3666 – SB 3909

April 21, 2008

SUMMARY OF AMENDMENT (017014): Deletes all language after the enacting clause. Increases the penalty for aggravated robbery to a mandatory minimum 10-year sentence for a person to possess a firearm with the intent to go armed during the commission of or attempt to commit aggravated robbery. Increases the penalty for aggravated robbery to a mandatory minimum 20-year sentence for a person to discharge a firearm during the commission of aggravated robbery, or flight or escape from the attempt to commit aggravated robbery. If violation results in death or serious bodily injury to another, offense is elevated to a Class A felony, punishable by a mandatory minimum 25-year sentence. Effective July 1, 2008, requires person convicted of aggravated robbery to serve 100 percent of the sentence imposed by the court less sentence credits earned and retained.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$98,252,200/Incarceration*

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On April 16, 2008, we issued a fiscal memorandum on this amendment indicating *an increase in state expenditures of \$41,536,200/Incarceration**. Based on additional information from the Department of Correction, the fiscal impact of the bill with the proposed amendment is as follows:

(CORRECTED)

Increase State Expenditures - \$40,123,700/Incarceration*

Assumptions applied to amendment:

- Under current law, aggravated robbery is a Class B felony served at 30 percent (2.4 years) for a first conviction.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.09 percent per year for the past 10 years, yielding a projected compound population growth of 13.6 percent over the next 10 years. According to the Department of Correction (DOC), the average operating cost per inmate per day for calendar year 2008 is \$62.78.
- During FY07, 890 offenders were admitted for aggravated robbery or attempt to commit aggravated robbery. DOC estimates 25 percent of those involved possession or discharge of a firearm (223). Population

growth will result in 26 additional offenders in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 249 offenders. DOC estimates 10 percent of these offenders (25) would result in serious bodily injury or death and will be elevated to a Class A felony sentenced to a mandatory minimum 25 year sentence to be served at 85 percent (21.25 years). Twenty-five persons will serve an additional 18.85 years (an increase from a Class B felony at 30 percent to a Class A felony at 85 percent) as a result of this bill. The cost per inmate at 2.4 years is \$55,032.95 (\$62.78 x 876.60 days). The cost per inmate at 21.25 years is \$487,270.74 (\$62.78 x 7,761.56 days). The cost per inmate in the tenth year is \$284,336.90 (\$62.78 x 4,529.10 days). The additional operating cost from increasing the average sentence length from 2.4 years to 21.25 years is \$229,303.95 (\$284,336.90 - \$55,032.95). The total additional operating cost for 25 offenders is \$5,732,598.75 (\$229,303.95 x 25).

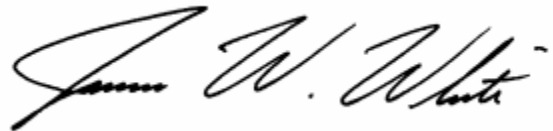
- DOC estimates 20 percent of those offenders convicted of aggravated robbery or attempt to commit aggravated robbery (249 x 20% = 50) involved the discharge of a firearm and will serve a 20-year minimum sentence at 85 percent (17.0 years). Fifty offenders will serve an additional 14.6 years (an increase from a Class B felony at 30 percent to a Class B felony at 85 percent) as a result of this bill. The cost per inmate at 2.4 years is \$55,032.95 (\$62.78 x 876.60 days). The cost per inmate at 17.0 years is \$389,816.72 (\$62.78 x 6,209.25 days). The cost per inmate in the tenth year is \$284,336.90 (\$62.78 x 4,529.10 days). The additional operating cost from increasing the average sentence length from 2.4 years to 17.0 years is \$229,303.95 (\$284,336.90 - \$55,032.95). The total additional operating cost for 50 offenders is \$11,465,197.50 (\$229,303.95 x 50).
- The remaining 174 offenders (249 - 25 - 50 + 174) would serve a mandatory minimum 10-year sentence. Based on legislation enacted in 2007, estimate assumes that eight percent (14) of those 174 inmates would have a prior conviction and would serve an additional 1.7 years (an increase from the current 6.8 years to 8.5 years) as a result of this bill. Prior conviction means a person serves and is released or discharged from, or is serving, a separate period of incarceration or supervision for the commission of a dangerous felony prior to or at the time of committing a dangerous felony on or after January 1, 2008, or the commission of an aggravated robbery or especially aggravated robbery prior to or at the time of committing an aggravated robbery on or after January 1, 2008. The cost per inmate at 6.8 years is \$155,926.69 (\$62.78 x 2,483.70 days). The cost per inmate at 8.5 years is \$194,908.67 (\$62.78 x 3,104.63 days). The additional operating cost from increasing the average sentence length from 6.8 years to 8.5 years is \$38,981.98 (\$194,908.67 - \$155,926.69). The total additional operating cost for 14 offenders is \$545,747.72 (\$38,981.98 x 14). One

hundred sixty offenders would not have a prior conviction and would serve an additional 6.1 years (an increase from 2.4 years to 6.8 years). The cost per inmate at 2.4 years is \$55,032.95 (\$62.78 x 876.60 days). The cost per inmate at 8.5 years is \$194,908.67 (\$62.78 x 3,104.63 days). The additional operating cost from increasing the average sentence length from 2.4 years to 8.5 years is \$139,875.72 (\$194,908.67 - \$55,032.95). The total additional operating cost for 160 offenders is \$22,380,115.20 (\$139,875.72 x 160).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

/lsc